

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BARBARA WEAVER,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 3:10-cv-438
)	
THE PRUDENTIAL INSURANCE COMPANY)	Judge Thomas A. Wiseman, Jr.
OF AMERICA, and)	
HENDERSONVILLE HOSPITAL CORP., d/b/a)	
HENDERSONVILLE MEDICAL CENTER,)	
)	
Defendants.)	

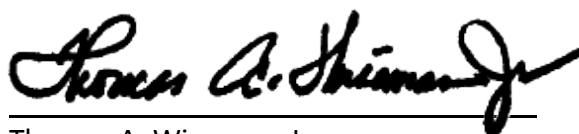
ORDER

Before the Court is defendant Henderson Hospital Corp.'s Motion for Judgment as a Matter of Law (ECF No. 59). For the reasons set forth in the accompanying Memorandum Opinion, the Court finds that (1) the plaintiff does not have an adequate remedy against the defendant hospital under 29 U.S.C. § 1132(a)(1)(B); (2) if the Plaintiff's allegations are true, the Hospital acted as an ERISA fiduciary in its dealings with her; and (3) if the Plaintiff proves her version of facts at trial, the plaintiff may recover damages under 29 U.S.C. § 1132(a)(3), pursuant to *Krohn v. Huron Memorial Hospital*, 173 F.3d 542, (6th Cir. 1999). Accordingly, the defendant's motion (ECF No. 59) is hereby **DENIED**.

This matter remains scheduled for trial on December 6, 2011. However, this Court is of the opinion that the order entered herein, though interlocutory in nature, involves a controlling question of law as to which there is substantial ground for difference of opinion and that an

immediate appeal from the order may materially advance the ultimate termination of the litigation. 28 U.S.C.A. § 1292(b). If a prompt application for permission to appeal is made to the United States Court of Appeals for the Sixth Circuit, as provided in § 1292(b), this Court will entertain a motion to stay these proceedings pending resolution of the application to appeal and, if applicable, the resolution of such appeal. *Id.*

It is so **ORDERED**.

A handwritten signature in black ink, reading "Thomas A. Wiseman, Jr.", written over a horizontal line.

Thomas A. Wiseman, Jr.
Senior U.S. District Judge